IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

TRC.No. 342 of 2002

TA.451/1997 of SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH-II, PALAKKAD.

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REVISION PETITIONER/REVENUE/APPELLANT:

STATE OF KERALA REPRESENTED BY
DUPUTY COMMISSIONER (LAW) COMMERCIAL
TAXES, ERNAKULAM.

BY SPL. GOVERNMENT PLEADER (TAXES) SRI V.V.ASHOKAN

RESPONDENT: ASSESSEE/RESPONDENT:

SRI T.T. SUNNY, WOOD TECH INDUSTRIES,
THURAVANKAD, PULLUR, THRISSUR.

BY ADV. SRI.ARIKKAT VIJAYAN MENON
SRI.HARISANKAR V. MENON

THIS TAX REVISION CASE HAVING BEEN FINALLY HEARD ON 22/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

T.R.C.No. 342 of 2002

Dated, this the 22nd day of June, 2007

ORDER

H.L. DATTU, CJ.

The matter arises under the provisions of the Kerala General Sales Tact Act. 1963 (the Act for short).

2. This revision petition is filed against the orders passed by the Sales Tax Appellate Tribunal in T.A.No.451/1997 dated 3.5.2001 for the assessment year 1993-94.

3. The revenue has raised the following question of law for our consideration and decision:

> "Is not the purchase turnover of rubber wood taxable under section 5(A) of the K.G.S.T. Act and assessee is ineligible for exemption under notification SRO 499/90, in the light of the reversal of the decision of the Honourable High Court of Kerala in Vattukulam Chemical Industries' case by the Honourable Supreme Court of India reported in 124 S.T.C. 233?"

4. The Tribunal, while rejecting the appeal filed by the revenue against the orders passed by the first appellate authority, had relied upon the observations made by a Division Bench of this Court in the case of ***M/s. Vattukulam Chemical Industries v. State of Kerala in T.R.C.Nos.143, 144 and 146 of 1995.***

5. Now it is brought to our notice by the learned Special Government Pleader (Taxes) that the aforesaid decision of this court has been reversed by the

Honourable Supreme Court in the case of ***State of Kerala v. Vattukulam Chemical Industries - [2001] 124 STC 233***.

6. Since the Tribunal had rejected the appeal filed by the revenue taking into consideration the law declared by this court and that law has now been reversed by the Honourable Supreme Court, we are of the opinion that the questions of law raised by the revenue requires to be answered in favour of the revenue and against the assessee.

7. Therefore, the following:

i) This tax revision case is allowed.

ii) The order passed by the Tribunal in T.A.No.451/1997 dated 3.5.2001 is set aside.

Iii) The question of law framed by the revenue is answered in favour of the revenue and against the assessee.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

mt/-

H.L.DATTU, C.J.
&
K.T. SANKARAN, J.

T.R.C. NO.342 OF 2002

ORDER

22.6.2007